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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,886	06/29/2001	Tatsuo Nitta	210675US2S	9684

22850 7590 05/17/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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DAVIS, CYNTHIA L

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/893,886

Applicant(s)

NITTA, TATSUO

Examiner

Cynthia L Davis

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/21/03, 4/15/04</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The number of databases to be searched being adaptively changed is not disclosed in the specification; this is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites rearranging a group of spread codes based on frequency of the spread code. It is unclear whether frequency of use of the spread code is meant, or frequency of the signal of the spread code. From the specification on page 12, lines 15-18, it appears that frequency of use of the spread code is means. Reflecting this in the claim is necessary for the sake of clarity.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2665

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shigemi.

Regarding claim 1, a mobile radio apparatus which selectively transmits one or some of candidates of a plurality of spread codes and selects one or more candidates of the transmitted spread codes among a database of spread code and performs synchronization with the transmitted spread codes, said mobile radio apparatus comprising: receiver configured to rearrange a group data of spread code based on frequency of the spread code and generate a database of spread codes based on the rearranged group data is disclosed in Shigemi, paragraph 32 (the log stores the spread codes, and the highest reception level code is selected first), paragraph 48, and paragraph 53 (the log gives priority to frequently used codes).

Regarding claim 2, the receiver updates the database every time a candidate of spread codes is specified is disclosed in Shigemi, paragraph 27 (the most recent channel identifier is stored, so the mobile must update the memory every time a new channel identifier is used).

Regarding claim 3, searching is performed in order based on higher priority is disclosed in paragraph 54.

Regarding claim 4, in the case where a candidate of spread codes meeting a preset condition has been detected, the receiver judges that the candidate of spread codes has been successfully specified, and stops the subsequent processing is

disclosed in paragraph 26 (the system finds the channel for a cell evaluation in a short time, implying that once the channel is found, no further processing is necessary).

Regarding claim 5, the receiver adaptively changes the number of the database elements to be searched is disclosed in paragraph 54 (old log entries are deleted, changing the number of entries to be searched).

Regarding claim 6, the receiver represents a use frequency of the candidate of each spread code in the database by a use rate, and only the use rate indicating a rate equal to or greater than a use frequency specified in advance is targeted for search is disclosed in paragraph 54 (use frequency at various times of day is used in assigning priority, so higher use frequencies for a given time will be tried first).

Regarding claim 7, a control device in a mobile radio apparatus which selectively transmits one or some of candidates of a plurality of spread codes and selects one or more candidates of the transmitted spread codes among a database of spread code and performs synchronization with the transmitted spread codes, the control device comprising: control section configured to rearrange a group data of spread code based on frequency of the spread code and generate a database of spread codes based on the rearranged group data is disclosed in Shigemi, paragraph 32 (the log stores the spread codes, and the highest reception level code is selected first), paragraph 48, and paragraph 53 (the log gives priority to frequently used codes).

Regarding claim 8, the control section updates the database every time a candidate of a spread code is specified is disclosed in Shigemi, paragraph 27 (the most

recent channel identifier is stored, so the mobile must update the memory every time a new channel identifier is used).

Regarding claim 9, searching is performed in order based on higher priority is disclosed in paragraph 54.

Regarding claim 10, in the case where a candidate of a spread code meeting a preset condition has been detected, it is assumed that the candidate radio apparatus control section of the spread code has been successfully specified, and the subsequent processing is stopped is disclosed in paragraph 26 (the system finds the channel for a cell evaluation in a short time, implying that once the channel is found, no further processing is necessary).

Regarding claim 12, the use frequency of each candidate in the database is represented by a use rate, and only the use rate indicating a rate equal to or greater than a use frequency specified in advance is targeted for search is disclosed in paragraph 54 (use frequency at various times of day is used in assigning priority, so higher use frequencies for a given time will be tried first).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia L Davis whose telephone number is (571) 272-3117. The examiner can normally be reached on 8:30 to 6, Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2665

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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HUY D. VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600